

**PLANNING AND ZONING COMMISSION
MINUTES
PUBLIC HEARING
April 27, 2004**

PLACE: Room 206
Town Hall

TIME: 8:00 P.M.

PLANNING AND ZONING COMMISSION MEMBERS ATTENDING:
Damanti, Conze, Forman, Kenny, Bigelow, Spain

STAFF ATTENDING: Ginsberg; Court Reporter – Mary Booth

Mr. Damanti read the first agenda item for **Commerce Bank**, and explained that it had been withdrawn. Mr. Damanti also noted that there are other agenda items, which for a variety of reasons, would be postponed until May 25th. This includes the **Darien Boat Club** application and the application for **Patricia Browne-Zak on 16 Five Mile River Road**. Mr. Damanti also opened the public hearing on the **Richard & Robin Woods application for 137 Five Mile River Road** and immediately continued it to May 25th to allow receipt of any EPC action. Mr. Ginsberg then explained that the Darien Boat Club did not send their notices properly, and thus that public hearing cannot proceed. Mr. Cassone, representing the Darien Boat Club, said that he would like to proceed with his presentation this evening and have the hearing continued. Mr. Damanti noted that it would not be legally correct to open the public hearing, as the notices to the neighbors were not properly done.

Mr. Conze then read the next agenda:

Subdivision Application #604, Dana Arnold, 45 Phillips Lane. Proposing to demolish the existing residence and subdivide the existing 1.23-acre property into three lots and an open space parcel. The subject property is located on the southwest side of Phillips Lane, approximately 1,120 feet west of its intersection with Hoyt Street, and is shown on Tax Assessor's Map #25 as Lot #113, R-1/3 Zone.

Attorney Roger Pearson was present with Craig Flaherty of Redniss & Mead. Mr. Pearson explained that there was a preliminary review by the Planning & Zoning Commission on January 13, 2004. At that time, several alternatives were presented. He explained that the comments from the Environmental Protection Commission were received yesterday (April 26, 2004).

Craig Flaherty of Redniss & Mead explained that there are now four minor drainage basins on site. Dry wells will be installed on each lot to collect roof runoff from each of the three proposed houses. He said based upon their testing of the soil, the entire site is gravel. Drainage will need to be included in the final site design process. Mr. Flaherty explained that they are present this evening under Section 840 of the Darien Zoning Regulations. The natural resources on-site to be preserved include: mature trees; steep slopes; and wetlands. He said that 30% of the property is proposed to be open space. Mr. Flaherty outlined the Zoning Data Table on the plans, noting the differences between the R-1/5 and R-1/3 Zone, and said that except for the side yards all of the requirements will be the same as a typical R-1/3 Zone. They are however reducing the lot sizes to be approximately 12,000 +/- square feet. Mr. Flaherty said that some of the adjacent lots have 5,000 to 6,000 square foot houses on them.

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Mr. Flaherty then distributed an April 27, 2004 letter with an 8½" x 14" Site Plan Exhibit with red markings on it dated April 27, 2004. The letter and the exhibit are designed to respond to the comments from the Environmental Protection Commission dated April 26, 2004. Comment 1: on Lot 2 there is a 42-inch oak. The plans have been modified to show a 25-foot buffer around the tree and preserve that tree. Comment 2 notes issues with regard to Lot 3. Mr. Flaherty said that the plans have been revised to push the house closer to the street and create a 70-foot structure setback in response to avoiding the steep slopes and protecting the two trees in the rear of the property. Mr. Flaherty said that Comment 3 was regarding drainage. He responded that 100% of the roof area will be captured as part of this proposal. Mr. Flaherty noted that as part of Comment 4, language should be included in the Planning & Zoning Commission Resolution and on the final subdivision map with any conditions. Mr. Flaherty noted that plants will be added in response to comment 5 from the EPC. He explained that they certainly can delineate the open space and will add a split rail fence to better designate that open space in the future. Mr. Flaherty explained that the fence can also be extended along the 50 foot wetlands setback line. This is in response to Comment 6. In response to Comment 7, Mr. Flaherty has shown the 100-foot setback from the Noroton River and noted that it does extend a small portion onto this property.

Mr. Kenny asked about the location of the proposed split rail fence. Mr. Flaherty showed it along the open space and along the 50-foot wetlands setback line. Mr. Bigelow suggested installing permanent markers to delineate the property lines on all of the lots. Mr. Flaherty agreed that this is a reasonable request to monument the lots and they will certainly do it. Mr. Flaherty noted that there are likely going to be issues with the street addresses for these three new properties and, in response to those concerns, he has spoken with the Tax Assessor. He then distributed draft exhibits regarding the street numbering. Mr. Flaherty said that it will be necessary to demolish the existing house on the property and at that time, they will need proper sediment and erosion controls. Mr. Pearson noted that in response to a question he knows the square footage of 1 Fresh Meadows Lane. Mr. Flaherty said that the proposed houses on these three new properties could be up to 5,000 square feet +/- based on a house at 20% coverage 2½ stories high. Mr. Ginsberg then read aloud the comments from SWRPA and Darien Department of Public Works.

Ms. Martha Kirk of 49 Phillips Lane said that she abuts the Arnold property and submitted a copy of her April 27, 2004 letter, and read that letter aloud. She noted the issues with the setbacks; street addresses; and the open space. She then presented a board of photographs. Mr. William Kirk, Mrs. Kirk's husband, noted that the size of the nearby houses on Phillips Lane are not 5,000 to 6,000 square feet, and his house is about 2,800 square feet. Mr. Conze noted that the houses are smaller on Phillips Lane than they are on Fresh Meadows Road, and there is more room between the houses. Mr. Kirk explained that the space between the houses on the proposed plans is minimal and he believes that that is out of keeping with the existing neighborhood. Mr. Bob Musitano of 42 Phillips Lane said that his concern is having the house on Lot 3 being too close to his front property line. Ms. Jackie Blummer of 9 Fresh Meadows Lane said that the rear part of the Arnold property is steep. There has been some erosion in the past and they are concerned about instability in the future. In response to a question, Mr. Flaherty noted that there are approximately 20 feet from the Arnold rear property line to the Blummer house. There is about 120 +/- feet from the Blummer house to the proposed house on Lot 2 which is the closest one to the Blummer house. It was noted that the open space as shown on the Arnold's property has been used as a dumping ground by the

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current owners in the past. Mrs. Blummer is fearful that this would continue. She believes that these three new houses would create a "wall of development" on the property.

Mr. John Paul Johnson of Fresh Meadows Lane said the Arnold property is in the R-1/3 Zone and they are proposing using some R-1/5 zoning aspects. He believes that they are squeezing large houses on small lots and it is a difficult piece of property that slopes to the back. Mr. William Cassidy of 43 Phillips Lane said that the subdivision is out of character for the street and erosion is likely as part of the development. He believes that there is a tremendous amount of traffic on Phillips Lane that needs to be considered. Mr. Dominic Santella of 47 Phillips Lane said that the houses will not look right on the street and it may be more appropriate to have two houses on the property, not three. Mr. Matthew Bickford of 15 Phillips Lane said that it is a shame to demolish brick houses such as the existing house on the Arnold property. Mr. John O'Neill of 25 Phillips Lane said that there is a drop in topography on the rear of the Arnold property and the overall project does not make sense. Mr. Spain noted that a thorough EPC subcommittee report had been received by the Commission earlier this evening. Mr. Flaherty responded that there is no application currently pending before the EPC, and none will be necessary if there is no work proposed within the regulated area(s).

Mr. Flaherty summarized by noting that the applicant came before the Planning & Zoning Commission in a preliminary process a few months ago. This is a unique lot shape that is on the curve of the Philips Lane. He said that the lot width requirements push the houses further back as part of the conventional subdivision. Mr. Flaherty explained that in preliminary discussions with the Commission, all agreed that it would be much better to push the houses to the front and have them on slightly smaller lots. This would preserve/conserves the steep slopes and wetlands in the rear of the property. Mr. Flaherty explained that they will be handling the runoff through peak control in dry wells and erosion will be avoided. Mr. Flaherty said that it is acceptable to condition this approval on cleaning up the open space if it has been used as a dumping ground in the past. He was not sure which entity would be best to manage the open space as part of the subdivision, whether it be a Homeowners' Association; the EPC; or the Darien Land Trust. Mr. Spain asked how a private sector party might arrange maintenance of the open space. Mr. Pearson responded that they will entertain any entity, and a Homeowners' Association of the three property lot owners may be feasible. Mr. Spain then asked if this property was part of an earlier subdivision and may be eligible for a free cut. Mr. Pearson responded that he was not sure.

Mr. Conze then read aloud Section 842 of the Darien Zoning Regulations regarding standards and criteria. He believes that three 5,000 square foot homes are not in keeping with the neighborhood and he said that the application does not address the central issue, which is house size. He believes that the houses on Phillips Lane were approximately half that size. Mr. Flaherty emphasized that at this time there are no specific house plans. The three lots will have the same density and front yard setback as others within the adjacent neighborhood and they are reducing the lot size of these lots and therefore the house sizes will be smaller than those which could be built on the other properties is built through coverage. Mr. Flaherty explained that there are now three curb cuts on the property and there will be no change in the number of curb cuts. There is now a 12 or 15 foot setback on the Kirk property line, an evergreen screening would be possible. Building envelopes shown on the plans are conceptual only and each lot is shown only relative to its feasibility, not relative to the exact houses to be built. There is a much milder slope in the front yard than there is in the rear yard.

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Mr. Pearson agreed to obtain the information regarding the square footage of the houses nearby. Mr. Damanti then said it might be best to continue the public hearing on this matter to May 25th to address outstanding issues and allow the applicants further time to meet with the neighbors. A motion was made by Mr. Bigelow to continue this hearing to May 25th in Room 206 in Town Hall at 8:00 p.m. That motion was seconded by Mr. Kenny. The Commission then voted 6 to 0 to continue the public hearing on this matter.

Mr. Damanti read the next agenda item:

Subdivision Application #605, Graham & Bill, LLC, 153 West Avenue. Proposing to demolish the existing residences on the property and subdivide the existing 2.1+/- acre property into four lots and an open space parcel. The subject property is on the south side of West Avenue, approximately across from its intersection with Old Parish Road, and is shown on Tax Assessor's Map #39, as Lot #108, in the R-1/3 Zone.

Attorney Robert F. Maslan, Jr., of Maslan Brown Associates, was present on behalf of the property owners. He explained that the property is 2.1+/- acres and he described the photographs of the existing houses; Stony Brook; and the large evergreen in the middle of the property. Mr. Ginsberg explained that the preliminary discussion regarding this application occurred on February 3, 2004. Mr. Maslan said that a number of adjustments have been made in response to those preliminary discussions. He explained that there is now 198½ feet of frontage, whereas for four lots, 200 feet is necessary. They can create frontage by moving the front property line back and conveying a narrow strip of property along the street line to the Town. They are proposing a 40-foot conservation easement in the front of the property. Mr. Damanti emphasized that the Commission likes seeing open space/conservation easement in the front to preserve the streetscapes with natural landscaping. Mr. Maslan responded that in this case there is a conservation easement both in the front and in the rear of the property. The conservation easement in the front has not yet been depicted on the plans but the 40-foot easement that is proposed would correspond with the front yard setback of this zoning district.

Mr. Maslan noted that to create this conservation subdivision, only two adjustments are necessary. The first is the lot area of Lot 4, which is proposing to be reduced from 14,450 square feet down to 14,051 square feet. This is a reduction of 399 square feet and is well over the R-1/5 required acreage. Mr. Maslan noted that open space is 15% of the total lot area of the property. Mr. Maslan explained that the second adjustment necessary is the lot width on Lots 1 and 4. Lot 1 will have a lot width of 75 feet in lieu of 80, and Lot 4 is proposed to have a lot width of 72 feet in lieu of 80. Mr. Maslan emphasized that setback adjustments are not necessary and that they will conform entirely with the R-1/3 setbacks. Mr. Damanti asked if there were any comments from the Fire Marshal regarding this subdivision. Mr. Ginsberg said that comments have been received and he read those aloud.

Mr. Peter Romano of Land Tech Consultants, Inc. then noted that one third of the open space is wetlands. Mr. Romano explained that the open space can be better delineated using a split rail fence/monument, however they propose to use more natural boulders and landscaping to delineate the open space. Mr. Romano explained that the conceptual houses shown on this plan have a 1500 square foot footprint. All of the proposed houses will be served by public water and public sanitary

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sewer systems. He said in response to the Fire Marshal's comments they will move the water main and all drainage of surface water will be handled on-site. He noted that they propose to place a conservation easement over the front of the property, however that is not yet shown on the plans. Mr. Romano then distributed a one page project description with beneficial impacts sheet and noted that 11 trees will need to come down as part of this subdivision. He explained that the 24-inch maple on Lot 1 may be able to be saved. He stated further that Darren Oustafine of the Public Works Department had asked them to decrease/account for the peak flow of run off. The new calculations submitted earlier today achieve that. Mr. Spain had asked how much open space is part of the subdivision. Mr. Romano replied that there will be a conservation easement across the front of the property noting an area which cannot be developed. In addition there is a CL&P right-of-way along the south side that restricts development in that right-of-way; and that there are wetlands and open space area that also limit development. Mr. Maslan said that the conservation easement across the front of the property would be approximately 100 feet long by 40 feet deep. Mr. Damanti said that they like to see the conservation easement across the front in order to preserve the streetscape as a benefit to the whole community.

Mr. Kenny then asked what percent of the property is now impervious surface. Mr. Ronald responded that just under .3 acres are currently impervious surface on the property and they are proposing to have it slightly over .3 acres – a slight increase. Mr. Kenny asked whether the applicant can reduce the amount of impervious surface, especially on the driveway. Mr. Romano responded that popcorn asphalt may be possible where the driveway may be able to be gravel in some spots. This would decrease the amount of runoff. Mr. Maslan then submitted a report from Barkan & Mess, which he had received earlier that day regarding traffic and site lines. Mr. Maslan explained that none of the houses are currently occupied. Mr. Spain asked if the proposed driveway would be wide enough for two vehicles to pass. Mr. Maslan responded that it would be, as it is proposed to be a 20 foot paved driveway. Mr. Maslan explained that the Barkan & Mess report says that a stop sign and stop bar will be needed to improve safety. Ms. Forman then asked how the driveway will be maintained. Mr. Maslan responded that a homeowners' association will be responsible for maintenance of the driveway including snow ploughing.

Ms. Dot Kelly of 6 Lake Drive asked where the infiltrators will drain to. Mr. Romano responded that they will drain to be just outside the open space and that there will be a one time disturbance to the property to install the infiltrators. Mr. Tom Carroll of 147 West Avenue said that he is concerned about the large house on Lot 4 and asked whether it could be moved. Mr. Maslan said that the Darien Zoning Regulations only allow one house per lot and that in this zone one cannot build a house behind another house. Mr. Maslan explained that it may be possible to add screening or a row of landscaping in order to buffer that adjacent property. Ms. Julianne Summerton of 145 West Avenue said that she is concerned about flooding and runoff of water. Mr. Maslan noted that there is a need for additional road frontage for this project and there is a desire for conservation easement along the front of the property. Tom Hlavac of 154 West Avenue said that he is concerned about blasting; who maintains the conservation easement; and the driveway sight lines. Ms. Sue Cameron of 42 Hoyt Street asked who would be maintaining the infiltrators and whether the conservation easement could fall to the EPC having that responsibility to maintain it. In response to that question Mr. Romano noted the infiltrators need no maintenance unlike a septic system. Mr. Maslan noted that the infiltrator is not like a septic tank, it is more like a leachfield. It contains the runoff from the rainwater. Mr. Maslan explained that the change in impervious surface on this property is miniscule. He emphasized the houses shown are conceptual footprints only.

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There are no infiltrators now and thus, the installation of infiltrators would be an improvement over existing conditions. Mr. Maslan noted that the Darien Subdivision Regulations require a note on the plans, specifically with regard to drainage and a mechanism in place explaining that the property owner is responsible for drainage on private property. Mr. Maslan then showed that wetlands line on the plans and noted the regulation within the Darien Subdivision Regulations for a 10% subdivision set aside for open space.

Mr. James Forte of 149 West Avenue then asked Mr. Romano to explain the buffer on the side of the property. Mr. Romano explained that there may be some blasting for utilities and possibly for the houses as well. Mr. Ginsberg asked whether there would be any sidewalks installed along the frontage of the property. Mr. Maslan said that the conservation easement along the front of the property will be left in its natural state. This is subject to the point that, according to the Barkan & Mess report, they will need to remove some vegetation for site line improvements on both sides of the driveway. Mr. Kenny asked how the sight lines would be affected if vehicles are parked in the road on the adjacent property. Mr. Maslan suggested a no parking sign would be appropriate near the Darien Auto Body Shop on the adjacent property. Mr. Maslan summarized by noting that there will be one curb cut on this property and the subdivision complies fully with Section 840 of the Darien Zoning Regulations and the Darien Subdivision Regulations.

Ms. Dot Kelly noted that the Fire Marshal commented regarding the need for a turn around on the property and suggested leaving the public hearing open to address that matter. Both Mr. Bigelow and Mr. Conze agreed that the Commission can condition any approval on the need to comply with the Fire Marshal's comments. Therefore Mr. Conze made a motion to close the public hearing on this matter. Mr. Kenny seconded that motion and the public hearing was then closed at 10:15 p.m.

Vice Chairman Conze then read the next agenda item:

Flood Damage Prevention Application #206, Land Filling & Regrading Application #118, John & Marion Holmgren, 10 Cross Road. Proposing to demolish existing residence and construct a new single-family residence with associated septic system, pool, driveway, walks and terraces and perform related site development activities within a regulated area. The subject property is located on the north side of Cross Road approximately 350 feet west of its intersection with Homewood Lane, and is shown on Tax Assessor's Map #65 as Lot #2, R-1 Zone.

Mr. Ted Milone of Redniss & Mead was present on behalf of the applicant. He noted that the application is to demolish the existing residence and construct a new single-family residence with associated septic system, pool, driveway, walks and terraces. Mr. Conze asked Mr. Ginsberg to summarize the issues regarding this application. Mr. Ginsberg noted that there are basically three issues: the slope of the proposed driveway; the issue of parking for contractors and workers on site; and comments from the Department of Public Works, and approval from the Health Department has been received. Mr. Milone responded to those comments. He explained that the driveway is now two to three percent near its intersection with Cross Road. There will be no changes within the first 50 feet of the driveway. Currently there is a portion of driveway which is a 15% slope, and they are reducing the amount of that 15% sloped area. Mr. Milone emphasized that construction vehicles will not be parked on Cross Road and will be parked at the top of the driveway. Workers' cars will be staged at the top of the driveway on the east side of the house.

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Mr. Milone summarized the drainage report that had been submitted. He said that they will be keeping the existing drainage and decreasing the flow for the storms. A detention system will help recharge the water. Mr. Ginsberg then asked about the ledge that is present near the pool. Mr. Milone responded that blasting/drilling may be necessary to install the pool/spa. Mr. Conze then asked if a pre and post blast survey will be done. Mr. Milone responded that he is not sure whether such a survey will be done. Jay Holmgren, the property owner, explained that he has spoken to the neighbors who are satisfied with the project. Mr. Conze then explained to Mr. Holmgren that he strongly recommends a pre and post blast survey and that Mr. Holmgren may wish to consider doing such.

Mr. Milone explained that the house plans were modified and revised plans dated April 27, 2004 were submitted. These plans reflect the deck that will be in line with the building. Mr. Spain asked besides the changes to the house was anything else changed on the plans. Mr. Milone responded that they were not. Mr. Kenny asked about how any impervious surfaces on the property would be changed from existing conditions to proposed conditions. Mr. Milone responded that there would be no change to the property and has no effect on impervious surfaces. Mr. Sean Sullivan of 7 Homewood Road then said that he is concerned about the blasting of ledge on the property.

There being no other comments from Commission or the neighbors, Mr. Conze made a motion to close the public hearing at 10:30 p.m. That motion was seconded by Mr. Kenny and unanimously approved by the Commission.

Mr. Damanti then read the next agenda item:

Land Filling & Regrading Application #119, William & Trish Coleman, 134 Nearwater Lane.

Proposing to fill and regrade portions of property associated with the construction of a new driveway, in-ground swimming pool and spa with patio, and an addition to existing residence and perform related site development activities. The subject property is located on the east side of Nearwater Lane, approximately 125 feet south of its intersection with Juniper Road, and is shown on Tax Assessor's Map #57 as Lot #22, R-1 Zone.

Kris Schmidt of Glen Gate Company was present on behalf of the applicants. He explained that grading will be done on the property and the installation of a pool, terrace and new driveway will also be done. They will be adding boulders and plants in the backyard and installing fill adjacent to the retaining wall. He then showed a cross section of the property. Mr. Bigelow asked about the fill. Mr. Coleman responded that there will be no fill brought onto the property but, all fill to be installed will be used from the property. Mr. Schmidt said that there might be a slight cut, which would be less than 40 cubic yards.

Mr. Kenny noted that the impervious surface on the property would be increasing about 30%. Mr. Schmidt agreed with that analysis. Mr. Nick Nelson of Glen Gate said that the part of the driveway is difficult now as it backs into Nearwater Lane and that there is no guest parking. Part of the increase in the impervious surface is the pool terrace, which would be blue stone and part of the increase in impervious surface is the addition to the existing house. Mr. Nelson explained that the engineering from McChord Engineering Associates, Inc., reflects the inclusion of a gallery to account for drainage. That gallery will take all the water from the roof leaders of the house. Mr. Nelson explained that they will be adding one curb cut to Nearwater Lane. Mr. Spain then asked if

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it would be possible to reduce the driveway to only have one curb cut instead of two. Mr. Nelson responded that two curb cuts make it safer, as this would eliminate backing onto Nearwater Lane. Using gravel for a portion of driveway would be a problem, as there is a slope in this area. Mr. Nelson said that they have checked with the Department of Public Works who said that no Belgian block or walls are allowed within the town right-of-way. Mr. Kenny noted that they are increasing the impervious surface of the property substantially, which disturbs him. Mr. Nelson responded that the pool terrace will be on a process base and will percolate. He said that they may be able to widen the joints. He explained that the pool is 720 square feet including the spa, and that water will fall from the sky into the pool and not run off from the pool. Mr. Kenny then asked the distances from the front property line to Holly Pond and the rear property line to the Darien River. Mr. Nelson said that it is approximately 200 feet +/- to Holly Pond.

Mr. Tomoko Nara of 1 Juniper Road said that he was concerned about the pool and the driveway and the house seems too big for the property. Mr. Nara's wife, Takeyoshi Nara, said there is a need to balance nature and the development. Mr. Nara thanked the Commission for their careful review and said that he was concerned about the project, especially the driveway. Mr. Nelson said that they have spoken to the Tree Warden who has reviewed the trees within the town right-of-way. Mr. Nelson explained that they will replant the trees which are due to be removed. He said that this is a smaller site than the other properties along Nearwater Lane. Mr. Spain then asked about screening adjacent properties. Mr. Nelson responded that filling and regrading will allow for planting. Lots of planting will be done along the three property lines, the rear and the two sides. However, no formal landscape plan has yet been prepared.

Ms. Sue Cameron of 42 Hoyt Street explained that this seems like a huge increase in impervious surface of the house. She suggested using grass pavers for the driveway and reducing the size of the pool terrace. Mr. Nelson said that grass pavers would not be aesthetically pleasing. Mr. Conze summarized by noting that there is a need to either close this public hearing or continue it to next month to allow the applicant to consider the comments received this evening. Mr. Damanti agreed, noting that there are really only two options: to either close the public hearing or continue it. Continuing the public hearing would give the applicant time to consider revising the plans in response to comments received.

Mr. Nelson then agreed to continue the public hearing on this matter to May 25, 2004 at 8:00 p.m. in Room 206 of Town Hall. Mr. Kenny made a motion to continue the public hearing to that date and time. That motion was seconded by Mr. Bigelow and unanimously agreed to by the Commission.

There being no other business, the Commission adjourned the public hearing at 11:11 p.m.

Respectfully submitted,

Jeremy B. Ginsberg
Planning & Zoning Director